

FILED

NOV 8 - 2006

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 06-0554 MJJ

Plaintiff,

DETENTION ORDER

v.

MARCUS SEWELL,

Defendant.

Having considered all the matters of record in this case, including (among other things) the Pretrial Services Report, proffers made during the detention hearing on September 28, 2006, and papers submitted thereafter by counsel for Mr. Sewell and by the government, the court finds that the government has established, by a preponderance of the evidence, that none of the conditions the court could impose on the pretrial release of Mr. Sewell would provide reasonable assurance that he would make his court appearances. It follows that the court must ORDER MR. SEWELL DETAINED.

The indictment in this case charges Mr. Sewell with sex trafficking in minors and transporting minors across state lines for the purpose of having them engage in illegal sexual activities. His prison-time exposure in this case could range up to the remainder of his life.

cc: WOB's Staff, Copy to parties via ECF, Monica Tutson,
2 certified copies to Marshal, Pretrial

1 According to the government, Mr. Sewell operated an extensive, interstate
2 prostitution ring in which at least two of the prostitutes he managed were under 18 years of
3 age. The government alleges that Mr. Sewell placed advertisements for prostitution services
4 in magazines, inviting customers to use prostitutes he controlled in San Francisco, Los
5 Angeles, San Diego, Chicago, Miami, or New York. He also is alleged to have engaged in
6 pimping in Arizona and North Carolina. The government further contends that one of the
7 girls whose sexual services Mr. Sewell managed was only 14 when Mr. Sewell first "hooked
8 up" with her. She apparently turned 15 sometime in mid-2005, just after Mr. Sewell
9 allegedly started selling her sexual services over the internet. The government contends that
10 Mr. Sewell knew that both this minor, D.B., and one of his other prostitutes, N.K., were
11 underage. Mr. Sewell denies that he knew that either of these girls was under 18 at the time
12 of the alleged offense conduct.

13 Mr. Sewell did not deny (in the detention hearing) that he was arrested in Las Vegas
14 on the pending charges – and that at the time he attempted to flee, then struggled with the
15 arresting officers. Nor did he deny that by being in Las Vegas (without permission from his
16 state probation officer) he was violating the terms and conditions of his active probation. He
17 concedes that he was on probation following a misdemeanor conviction in the spring of 2003
18 in San Mateo County for threatening a crime with intent to terrorize. Nor did he deny that he
19 had violated the terms of that probation on three other occasions (October 2003, December
20 2003, and August of 2004). As the court understood Mr. Sewell's statements during the
21 detention hearing, the last of these violations resulted from his threatening (apparently over
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1 the phone from Las Vegas – where he was not supposed to be) to kill the mother of three of
2 his children and to harm those children in some unspecified way.

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4 The government contends that one of the underage prostitutes that Mr. Sewell was
5 using in his operation felt threatened (with physical harm) and pressured by Mr. Sewell. Mr.
6 Sewell denies this allegation, pointing out that this girl has an extensive criminal record and
7 arguing that she has no credibility.
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9 Mr. Sewell did not deny that there are three outstanding warrants for his arrest. One
10 stems from charges in Santa Clara County that he engaged there in illegal commercial
11 trafficking in sex – trafficking that allegedly involved, perhaps among other prostitutes, the
12 girl whom the government contends turned 15 in the summer of 2005. The second warrant is
13 based on yet another alleged violation of probation for yet again making threats with intent to
14 terrorize. The third warrant is based on allegations that Mr. Sewell is delinquent in paying
15 some \$552 in traffic fines in Santa Clara County.
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18 Mr. Sewell admits that he has used marijuana daily for about 20 years. Four of his
19 past arrests were based, at least in part, on alleged violations of drug laws.
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21 The government reported during the detention hearing that when officers conducted a
22 search of an apartment Mr. Sewell has periodically used in Oakland they found a stolen
23 firearm and pornographic photographs of minors – D.B. and N.K. Mr. Sewell claims that a
24 friend of his leases this apartment but permits Mr. Sewell to use it for a week or two at a time
25 each month. Mr. Sewell admitted taking girls to this apartment and ‘fooling around.’ He
26 denied any responsibility for the stolen gun – but did not deny responsibility for the child
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1 pornography. When he was interviewed by Pretrial Services he said nothing about this
2 residence, even though it appears that he has been spending as much time there as in any of
3 the several other places he says he has been staying.
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5 The government asserted (without contradiction from the defense) that Mr. Sewell had
6 acquired false identification documents for two minors who were in his prostitution stable so
7 that when they traveled interstate (on commercial aircraft – using tickets Mr. Sewell
8 purchased) to engage in prostitution under his management they would not be viewed as
9 unaccompanied minors.
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11 The government also contends that Mr. Sewell has access to resources he could use to
12 flee – even though he has been unemployed since 2001. According to the government, each
13 of Mr. Sewell's prostitutes (of whom there were at least several) were wiring him about
14 \$1,000 per day, five days a week. Mr. Sewell owns a \$50,000 Lexus and in 2003 netted
15 about \$200,000 from selling a house he owned in Las Vegas. He says he has spent that
16 money. The charges pending in Santa Clara County and in this court, however, suggest that
17 he has had a steady and substantial source of illegal income for quite some time. It is not
18 clear where that money has gone.
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22 Mr. Sewell admits to having fathered four children – and that the mother of another
23 child claims that he is that child's father, as well. He concedes that he pays child support,
24 occasionally, for only one of these children.
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26 The picture of Mr. Sewell that emerges from the information before the court is of a
27 person who has no respect for rules (e.g., terms of probation) or laws (e.g., about making
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1 money illegally), and no concern about how his activities can harm other people. He has
2 used marijuana illegally for two decades. He has repeatedly violated the terms and
3 conditions of his probation – by threatening people, by engaging in extensive unauthorized
4 travel, and by using marijuana on a daily basis. He has intense emotional outbursts,
5 sometimes threatening women with violence when they resist his pressures. He has traveled
6 extensively but without permission – and rarely seems to stay in the same place for more than
7 a couple of weeks at a time. He has had income he has not reported – and has moved his
8 assets around in unusual and curious ways (e.g., he moved money from a safe deposit box
9 into a bank account in separate \$50,000 chunks). He has demonstrated an impulse to flee
10 when confronted by the authorities (trying to escape arrest, and struggling with the officers
11 who were trying to take him into custody in the Las Vegas Hotel).

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Against this backdrop, the proffer of sureties in support of his request for pretrial
release falls well short of what the Bail Reform Act requires. A half sister, an aunt, and a
friend are willing to sign an unsecured bond on his behalf. But no one is prepared to post
property to support his release (none of the proposed sureties owns property that could be
posted). Given these circumstances, Mr. Sewell might well be tempted to conclude that if he
fled, none of the sureties would be likely to suffer any significant financial harm.

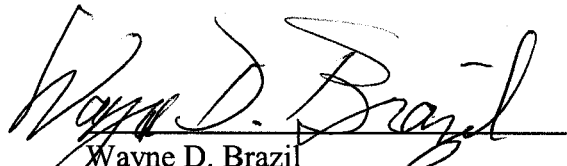
Moreover, it is not clear to the court that Mr. Sewell would be substantially
constrained even if he thought the sureties would suffer if he fled. His ties to other people
seem to be extremely thin. He has demonstrated a considerable ability to look out for himself
and to pursue what he wants, but there is no evidence that he feels real responsibility for

1 others. He does not support several children he admits he has fathered. He plays little or no
2 role in their lives. He has not sustained respectful relationships with their mothers. His
3 proposed sureties do not appear to be major players in his day to day life. In sum, the court
4 has no confidence that Mr. Sewell feels the kind of connection with other people that would
5 be needed to provide reasonable assurance that he would not flee or hide if he were released.
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8 For the reasons set forth above, the court ORDERS MR. SEWELL DETAINED.

9 **IT IS SO ORDERED.**

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11 Dated: November 8, 2006.

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13 Wayne D. Brazil
14 UNITED STATES MAGISTRATE
15 JUDGE
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